

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GREGORY HARVEY,

Plaintiff,

vs.

9:09-CV-154

DAVID HARDER, *et al.*,

Defendants.

Thomas J. McAvoy,
Sr. U.S. District Judge

DECISION & ORDER

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 was referred to the Hon. Andrew T. Baxter, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation dated July 31, 2012 recommended that: (1) Defendants' motion for summary judgment be granted, and Plaintiff's amended complaint be dismissed on its merits in its entirety against all Defendants; and (2) Plaintiff's request to amend his amended complaint to remove defendant Jon Gillette and add defendant Edward Cermak be denied as moot.

Plaintiff filed timely objections to the Report-Recommendation, essentially raising the same arguments presented to the Magistrate Judge.

When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." See 28 U.S.C. § 636(b)(1). After such a review, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions." Id.

Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff's objections, this Court has determined to accept and adopt the recommendation of Magistrate Judge Baxter for the reasons stated in the Report-Recommendation.

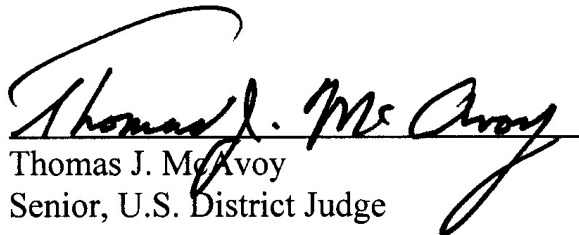
It is therefore

ORDERED that Defendants' motion for summary judgment be **GRANTED**, and Plaintiff's Amended Complaint be **DISMISSED**; and it is further

ORDERED that Plaintiff's request to amend his amended complaint to remove defendant Jon Gillette and add defendant Edward Cermak is **DENIED** as moot.

IT IS SO ORDERED.

Dated: September 17, 2012


Thomas J. McAvoy
Senior, U.S. District Judge